

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1426

Introduced by Assembly Member Levine

February 27, 2015

An act to amend ~~Section~~ *Sections 47612.5 and 47634.2* of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL’S DIGEST

AB 1426, as amended, Levine. Charter schools: classroom-based ~~instruction~~. *and nonclassroom-based instruction: blended learning charter schools.*

Existing law, the Charter Schools Act of 1992, requires charter schools, as a condition of receiving funding apportionments, to offer in each fiscal year a specified minimum number of minutes of instruction to each pupil based on grade level. For purposes of that instructional time requirement, the act defines “classroom-based instruction” as occurring only when charter school pupils are engaged in required educational activities under the immediate supervision and control of an employee of the charter school who possesses a specified teaching certification. The act requires, for purposes of calculating average daily attendance for classroom-based instruction apportionments, that at least 80% of the instructional time offered by the charter school be at the charter schoolsite. *The act authorizes a charter school to receive funding for nonclassroom-based instruction, as defined for that purpose, only if a determination for funding is made by the State Board of Education, subject to any conditions or limitations the state board may prescribe.*

~~This bill would instead require, for a charter school that only operates a single schoolsite within the geographic jurisdiction of the authority that granted its charter and has no more than one satellite facility, for purposes of calculating average daily attendance for classroom-based instruction apportionments, that at least 60% of the instructional time offered by the charter school be at the charter schoolsite. subject to that determination for funding for nonclassroom-based instruction a “blended learning charter school,” defined as a charter school through which a pupil learns at least in part through online delivery of content and instruction and at least in part at a supervised location away from home, that offers classroom-based instruction no less than 60% and no more than 80% of the instructional time, and that satisfies other specified criteria. The bill would provide that a blended learning charter school shall be considered a classroom-based school for certain purposes. The bill would require the state board to adopt regulations setting forth criteria for the determination of funding for a blended learning charter school, as provided. The bill would also make nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 47612.5 of the Education Code is
- 2 amended to read:
- 3 47612.5. (a) Notwithstanding any other law, and as a condition
- 4 of apportionment, a charter school shall do all of the following:
- 5 (1) For each fiscal year, offer, at a minimum, the following
- 6 number of minutes of instruction:
- 7 (A) To pupils in kindergarten, 36,000 minutes.
- 8 (B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.
- 9 (C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.
- 10 (D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.
- 11 (2) Maintain written contemporaneous records that document
- 12 all pupil attendance and make these records available for audit and
- 13 inspection.
- 14 (3) Certify that its pupils have participated in the state testing
- 15 programs specified in Chapter 5 (commencing with Section 60600)
- 16 of Part 33 in the same manner as other pupils attending public
- 17 schools as a condition of apportionment of state funding.

(b) Notwithstanding any other law, and except to the extent inconsistent with this section and Section 47634.2, a charter school that provides independent study shall comply with Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 and implementing regulations adopted thereunder. The state board shall adopt regulations that apply this article to charter schools. To the extent that these regulations concern the qualifications of instructional personnel, the state board shall be guided by subdivision (l) of Section 47605.

(c) A reduction in apportionment made pursuant to subdivision (a) shall be proportional to the magnitude of the exception that causes the reduction. For purposes of paragraph (1) of subdivision (a), for each charter school that fails to offer pupils the minimum number of minutes of instruction specified in that paragraph, the Superintendent shall withhold from the charter school's apportionment for average daily attendance of the affected pupils, by grade level, the sum of that apportionment multiplied by the percentage of the minimum number of minutes of instruction at each grade level that the charter school failed to offer.

(d) (1) Notwithstanding any other law, and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the state board. The determination for funding shall be subject to any conditions or limitations the state board may prescribe. The state board shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the state board shall be guided by subdivision (l) of Section 47605.

(2) Except as provided in paragraph (2) of subdivision ~~(b)~~ (c) of Section 47634.2, a charter school that receives a determination pursuant to subdivision ~~(b)~~ (c) of Section 47634.2 is not required

1 to reapply annually for a funding determination of its
2 nonclassroom-based instruction program if an update of the
3 information the state board reviewed when initially determining
4 funding would not require material revision, as that term is defined
5 in regulations adopted by the state board. A charter school that has
6 achieved a rank of 6 or greater on the Academic Performance Index
7 for the two years immediately before receiving a funding
8 determination pursuant to subdivision ~~(b)~~ (c) of Section 47634.2
9 shall receive a five-year determination and is not required to
10 annually reapply for a funding determination of its
11 nonclassroom-based instruction program if an update of the
12 information the state board reviewed when initially determining
13 funding would not require material revision, as that term is defined
14 in regulations adopted by the state board. Notwithstanding any
15 other law, the state board may require a charter school to provide
16 updated information at any time it determines that a review of that
17 information is necessary. The state board may terminate a
18 determination for funding if updated or additional information
19 requested by the state board is not made available to the state board
20 by the charter school within a reasonable amount of time or if the
21 information otherwise supports termination. A determination for
22 funding pursuant to Section 47634.2 may not exceed five years.

23 (3) A charter school that offers nonclassroom-based instruction
24 in excess of the amount authorized by paragraph (1) of subdivision
25 (e) is subject to the determination for funding requirement of
26 Section 47634.2 to receive funding each time its charter is renewed
27 or materially revised pursuant to Section 47607. A charter school
28 that materially revises its charter to offer nonclassroom-based
29 instruction in excess of the amount authorized by paragraph (1)
30 of subdivision (e) is subject to the determination for funding
31 requirement of Section 47634.2.

32 (e) (1) Notwithstanding any other law, and as a condition of
33 apportionment, “classroom-based instruction” in a charter school,
34 for purposes of this part, occurs only when charter school pupils
35 are engaged in educational activities required of those pupils and
36 are under the immediate supervision and control of an employee
37 of the charter school who possesses a valid teaching certification
38 in accordance with subdivision (l) of Section 47605.

39 (A) Except as provided by in subparagraph (B), for purposes
40 of calculating average daily attendance for classroom-based

instruction apportionments, at least 80 percent of the instructional time offered by a charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a).

~~(B) For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 60 percent of the instructional time offered by a charter school that only operates a single schoolsite within the geographic jurisdiction of the authority that granted its charter and has no more than one satellite facility, as provided for in subdivision (c) of Section 47605.1, shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 60 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a).~~

(B) (i) A blended learning charter school that offers classroom-based instruction no less than 60 percent and no more than 80 percent of the instructional time offered by the charter school is subject to the determination for funding requirement of Section 47634.2 to receive funding. For purposes of this subparagraph and Section 47634.2, “blended learning charter school” means a charter school that offers a formal education program in which a pupil learns at least in part through online delivery of content and instruction with some element of pupil control over time, place, and pace and at least in part at a supervised location away from home, operates a single schoolsite within the geographic jurisdiction of the authority that granted its charter, and has no more than one satellite facility, as provided for in subdivision (c) of Section 47605.1.

(ii) A blended learning charter school that seeks a funding determination pursuant to this subparagraph shall be considered to be a classroom-based school for purposes of Sections 47614 and 47614.5, Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1, and any other local, state, or federally funded facility program, provided that the charter school is otherwise eligible for the facility program.

(2) For purposes of this part, “nonclassroom instruction” or “nonclassroom-based instruction” means instruction that does not

1 meet the requirements specified in paragraph (1). The state board
2 may adopt regulations pursuant to paragraph (1) of subdivision
3 (d) specifying other conditions or limitations on what constitutes
4 nonclassroom-based instruction, as it deems appropriate and
5 consistent with this part.

6 (3) For purposes of this part, a schoolsite is a facility that is used
7 principally for classroom instruction.

8 (4) Notwithstanding any other law, neither the state board nor
9 the Superintendent may waive the requirements of paragraph (1)
10 of subdivision (a).

11 *SEC. 2. Section 47634.2 of the Education Code is amended to*
12 *read:*

13 47634.2. (a) (1) Notwithstanding any other ~~provision of law,~~
14 the amount of funding to be allocated to a charter school on the
15 basis of average daily attendance that is generated by pupils
16 engaged in nonclassroom-based instruction, as defined by
17 paragraph (2) of subdivision ~~(d)~~ (e) of Section 47612.5, including
18 funding provided on the basis of average daily attendance pursuant
19 to Sections ~~47613.1, 47613.1 and 47633, 47634, and 47664,~~ shall
20 be adjusted by the ~~State Board of Education.~~ *state board.* The ~~State~~
21 ~~Board of Education~~ *state board* shall adopt regulations setting
22 forth criteria for the determination of funding for
23 nonclassroom-based ~~instruction,~~ *instruction and,* at a ~~minimum~~
24 ~~minimum,~~ the ~~regulation~~ *regulations* shall specify that the
25 nonclassroom-based instruction is conducted for the instructional
26 benefit of the pupil and substantially dedicated to that function. In
27 developing these criteria and determining the amount of funding
28 to be allocated to a charter school pursuant to this section, the ~~State~~
29 ~~Board of Education~~ *state board* shall consider, among other factors
30 it deems appropriate, the amount of the charter school's total
31 budget expended on certificated employee salaries and benefits
32 and on schoolsites, as defined in paragraph (3) of subdivision ~~(d)~~
33 (e) of Section 47612.5, and the teacher-to-pupil ratio in the school.

34 (2) For the 2001–02 fiscal year only, the amount of funding
35 determined by the ~~State Board of Education~~ *state board* pursuant
36 to this section shall not be less than 90 percent of the unadjusted
37 amount to which a charter school would otherwise be entitled on
38 the basis of average daily attendance.

39 (3) For the ~~2002–03~~ 2002–03 fiscal year, the amount of funding
40 determined by the ~~State Board of Education~~ *state board* pursuant

1 to this section shall not be more than 80 percent of the unadjusted
2 amount to which a charter school would otherwise be entitled,
3 unless the ~~State Board of Education~~ *state board* determines that a
4 greater or lesser amount is appropriate based on the criteria
5 specified in paragraph (1) of subdivision (a).

6 (4) For the 2003–04 fiscal year and each fiscal year thereafter,
7 the amount of funding determined by the ~~State Board of Education~~
8 *state board* pursuant to this section shall not be more than 70
9 percent of the unadjusted amount to which a charter school would
10 otherwise be entitled, unless the ~~State Board of Education~~ *state*
11 *board* determines that a greater or lesser amount is appropriate
12 based on the criteria specified in paragraph (1) of subdivision (a).

13 (5) This section does not authorize the *state board* to adjust the
14 amount of funding a charter school receives on the basis of average
15 daily attendance generated through classroom-based instruction,
16 as defined for purposes of calculating average daily attendance for
17 classroom-based instruction apportionments by paragraph (1) of
18 subdivision (d) of Section 47612.5.

19 (b) (1) *The state board shall adopt regulations setting forth*
20 *criteria for the determination of funding for a blended learning*
21 *charter school as defined in subparagraph (B) of paragraph (1)*
22 *of subdivision (e) of Section 47612.5.*

23 (2) *The state board shall consider the criteria developed*
24 *pursuant to paragraph (1) of subdivision (a) and shall include*
25 *facility costs for a blended learning charter school as instructional*
26 *costs for any funding evaluation that considers the total*
27 *instructional costs of the school.*

28 (b)

29 (c) (1) The ~~State Board of Education~~ *state board* shall appoint
30 an advisory committee to recommend criteria to the *state board* in
31 accordance with this section if it has not done so by the effective
32 date of the act adding this section. The advisory committee shall
33 include, but is not limited to, representatives from school district
34 superintendents, charter schools, teachers, parents, members of
35 the governing boards of school districts, county superintendents
36 of schools, and the ~~Superintendent of Public Instruction.~~
37 *Superintendent.*

38 (2) If a charter school submits a substantially complete request
39 for a determination for funding by February 13, 2002, and the ~~State~~
40 ~~Board of Education~~ *state board* does not act on that request by

1 March 19, 2002, full funding is automatically granted for the
2 2001–02 fiscal year, but the charter school shall reapply for a
3 determination for funding for the 2002–03 fiscal year.

4 (3) The determination for funding shall be on a percentage basis
5 and the ~~superintendent~~ *Superintendent* shall implement the
6 determination for funding by reducing the charter school’s reported
7 average daily attendance by the determination for funding
8 percentage specified by the ~~State Board of Education~~ *state board*.

9 (4) If the ~~State Board of Education~~ *state board* denies a request
10 for a determination for funding or provides a reduction as
11 authorized by subdivision (a), the *state board* shall, in writing, give
12 the reasons for its denial or reduction and, if appropriate, may
13 describe how any deficiencies or problems may be addressed.

14 (e)

15 (d) Each charter school offering nonclassroom-based instruction
16 shall, in each report provided to the Superintendent of Public
17 Instruction for apportionment purposes, identify the portion of its
18 average daily attendance that is generated through
19 nonclassroom-based instruction as defined in paragraph (2) of
20 subdivision ~~(d)~~ (e) of Section 47612.5.

21 (d)

22 (e) Notwithstanding any other ~~provision of~~ law, charter schools
23 shall be subject, with regard to subdivisions (c) and (d) of Section
24 47612.5 and this section, to audits conducted pursuant to Section
25 41020.